IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2657 of 2005

Between:

Ch.Sambasiva Rao, S/o.Sangaiah,
M/s. Ch.Sangaiah (HPC) Dealer Narsaraopet, Guntur District.

..... PETITIONER

AND

1 The Director of Civil Supplies Government of A.P., Civil Supplies

Bhavan Khairathabad, Hyderabad.
2 Joint Collector & Additional District Magistrate Guntur District,

Guntur.
3 The Mandal Revenue officer, Narsaraopet, Guntur District.
4 The Station House officer, Narsaraopet Town P.S., Narsaraopet,

Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent in initiating proceedings in Rc.No.56/2005-S-10 and thereby passing the impugned order dt.25-01-2005 keeping the form-B License No.128/81, granted in favour of the petitioner under interim suspension under clause 28(2) of Andhra Pradesh petroleum products (Licensing and Regulation of Supplies) order, 1980 pending further enquiry in the matter, without contemplating or conceiving any action against the petitioner as provided under sub-clause (1) of clause 28 of the A.P.P.P.(L&R of S) order, 1980 as wholly arbitrary, illegal, unlawful, unconstitutional and in

violation of principles of natural justice and consequently pass such other order or orders as may be deemed necessary and proper in the interest of justice.

Counsel for the Petitioner:MRSM.SOBHA KRISHNA

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The petitioner is a licencee under the Andhra Pradesh Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 (for short 'the Order'). His licence was suspended by the second respondent through his proceedings, dated 25.01.2005. The petitioner challenges the same.

According to the learned counsel for the petitioner, the second respondent suspended the licence of the petitioner, in exercise of power under Clause 28(2) of the Order, pending enquiry into the matter. She submits that such a suspension could have been ordered, if only a show cause notice ensued simultaneously along with it, under sub-clause (1) of Clause 28, and since such a notice was not issued, the impugned order is vitiated.

The learned Government Pleader for Civil Supplies, on the other hand, submits that the very concept of suspension, pending enquiry, contemplates that a notice would be issued at a later stage and to protect the interests of the public at large, the suspension is resorted to.

The licencing authority is conferred with the power, under clause 28 of the Order, to suspend the licences, in case it receives information as to the violation of conditions by the licencee. The provision contemplates substantive measures of suspension or cancellation which are required to be taken only after issuance of a show cause notice. Under sub-clause (2), it is permissible to suspend the licence, pending enquiry. However, such a measure can be resorted to only when the proceedings for cancellation of substantive suspension have already been instituted, or initiated. Through a catena of decisions, this Court held that in the absence of any show cause notice for any

substantive punishment, it is impermissible for the licencing authority to suspend the licence, pending enquiry. In the instant case, the impugned order does not disclose that any show cause notice was issued, as yet, to the petitioner. A Division Bench of this Court in *A. Srirama Murthy v. Joint Collector, Visakhapatnam* held that such an action is impermissible.

Following the said Judgment, the writ petition is allowed and the impugned order dated 25.01.2005 is set aside. It is, however, left open to the second respondent to pass appropriate orders in accordance with law. There shall be no order as to costs.

21.02.2005

ksld

To

1 The Director of Civil Supplies Government of A.P., Civil Supplies

Bhavan Khairathabad, Hyderabad.
2 Joint Collector & Additional District Magistrate Guntur District,

Guntur.
3 The Mandal Revenue officer, Narsaraopet, Guntur District.
4 The Station House officer, Narsaraopet Town P.S., Narsaraopet,

Guntur District.

5 Two CCs.to the G.P.for Civil Supplies, High Court of A.P.,

Hyderabad (OUT)

6 Two CD copies.